

CITY PLANNING COMMISSION
March 26, 2015

On Thursday, March 26, 2015 at 1:00 p.m., the City Planning Commission held a regular meeting in the 10th Floor Conference Room. Those in attendance were:

MEMBERS PRESENT: Messrs. Fraley (chairman), Thomas, Neumann, Hales;
Ms. McClellan and Austin

MEMBER ABSENT: Mr. Houchins

STAFF/GUESTS: Messrs. Homewood, Newcomb, Melita, Simons, Jones,
Whitney, Tajan; Ms. Pollock-Hart, McBride, Mouak

Mr. Fraley introduced and welcomed Mr. Clarke Templeton, who is a city planning intern. Mr. Templeton presented the first two applications.

Regular Agenda:

1. Architectural Review Board Items

▪ **Private Projects**

a) 112 W. Wilson Street – Hugh R. Copeland Center

Project Request: New façade encroachment.

Photographs, elevation drawings and colors were presented for review. Mr. Templeton noted that the building is located in the downtown Arts and Design District. The original structure was built in 1912 and it is contributing to the Auto Row Historic District. The Hurrah Players would like to renovate the building by adding a box office, new canopy and vertical marquee, which will add more color and life to the streetscape element. The vertical polycarbonate marquee element encroaches 5 feet by 1½ feet into the public right-of-way. The applicant introduced signage and some decorative elements towards the sidewalk. There will be a garden terrace on the northeastern corner of the site. The Architectural Review Board recommended approval of the application as presented with the recommendation that they consider using a color for the polycarbonate to more closely match the opaque color in the rendering.

On a motion made by Dr. Neumann, seconded by Mr. Hales, the Commission approved the request as presented and recommended by the Architectural Review Board in the staff report.

2. 759 Granby Street – Work Release

b) Project Request: Signage and outdoor dining encroachment.

Photographs and elevation drawings were presented for review. Mr. Templeton noted that the applicant would like to install two new business signs on the site. The structure is dated 1918 and is in the Arts District. The proposed blade sign will front on Granby Street and the other proposed sign is a corner sign fronting on Olney Road. There will be outdoor dining furniture in the public alley between the parking lot and the building. The Architectural Review Board recommended approval of the application as presented with the recommendation that they consider adding a buffer between the outdoor dining area and the parking lot in the form of planters or plantings.

On a motion made by Mr. Hales, seconded by Dr. Neumann, the Commission approved the request as presented and recommended by the Architectural Review Board in the staff report.

Mr. Arthur Rutter, applicant, thanked staff for all of their help and for their support of the Arts District. He noted that all of the neighbors have been working together and helping each other out and that as a result of all their hard work, this area will be a jewel within the next 12 to 19 months.

3. 7922 Shore Drive – New construction housing development

c) Project Request: Signage and outdoor dining encroachment.

Photographs and elevation drawings were presented for review. Ms. McBride stated that the applicant wanted to send their project through the ARB process and the Commission will be hearing this as a rezoning. Currently the site is an empty lot with trees located next door to a McDonalds and there is a hotel in the area. The proposed site plan shows that this is a phased project with a multifamily condominium development and parking at ground level. The living space is above the parking to accommodate the flood requirements for the site. Staff noted that the applicant has updated the elevations to include the addition of hurricane shutters. The building will be situated to the left of the site and vehicular traffic will enter from behind to allow for a center courtyard upon completion of the development. The Architectural Review Board recommended approval of the application with a recommendation that the applicant consider better pedestrian connectivity between the building and Shore Drive without having the pedestrians walk in the drive aisles from the back to the front. Staff recommended a walkway so the pedestrians can come up through the middle instead of around the sides.

Mr. Fraley asked if they are talking about a pedestrian walkway under the center of the building. Ms. McBride responded that there is a sidewalk there right now and all they have to do is make it so that they can put in an opening so it will be pedestrian friendly when they come out the doorway, which they are willing to take a look at that.

Mr. Thomas stated that this is a project that is not required to come through the ARB. The neighborhood is in support of it and the applicant agreed to go through the architectural review process to see what they think and this is the result of that.

On a motion made by Mr. Hales, seconded by Dr. Neumann, the Commission approved

the request as presented and recommended by the Architectural Review Board in the staff report.

4. Presentation

- Air Installations compatible use zones (AICUZ) Study – Mr. Steve G. Jones, Installation Community Planning & Liaison Officer, Naval Station Norfolk

Mr. Jones, Liaison Officer for the Naval Station Norfolk, stated that his primary role is to educate and inform municipalities and stakeholders outside the fence of the areas of issues and concerns that may be in conflict with mission compatibility with the naval operations. The AICUZ studies are prepared for all naval facilities conducting air operations. The study identifies accidental potential zones, noise zones and guidelines for compatible development. The goals of the AICUZ Program are to protect the health, safety and welfare of those living near these facilities; ensure that the Navy's continuing flight mission is not impacted; and provide recommendations to support community development. Other issues addressed in the safety analysis include: Imaginary surfaces, bird/animal strike hazard (BASH), electromagnetic interference (EMI), lighting, smoke, dust and steam. He provided aircraft noise comparison data between 1999 and 2009, noting that the Day-Night average sound level include weighted average of noise energy and average over a 24-hour period. The noise contours were modeled using projected operations 2015 at Naval Station Norfolk Chambers Field. The next steps include individual briefings with community groups during the summer/fall time period. They will continue to work with the city on integrating the AICUZ into the zoning update and will distribute AICUZ update maps and studies as an ongoing effort.

5. Public Hearing Preview

The agenda and staff reports for the Public Hearing were distributed in the Commissioners' packets. Staff previewed same.

Reporter's note: The Commission moved out of the action component of the regular meeting at 2:25 p.m., at which time, the Commission reconvened in the City Council Chamber for the public hearing.

REGULAR AGENDA:

- 1. CITY OF NORFOLK, for the following applications:**
 - a) Change of zoning from C-2 (Corridor Commercial) district to D-2 (Downtown Regional Center) district on properties located at 523-545 E. Bute Street, 555 Fenchurch Street, and 520 Wood Street.**
 - b) To close Fox Lane from the eastern line of Posey Lane to the southern line of E. Bute Street.**
 - c) To close Posey Lane from the southern line of E. Bute Street to the northern line of Wood Street.**

The purpose of these requests is to allow for the development of additional parking for the existing church and a multi-family residential complex consisting of approximately 120 units.

Mr. Newcomb advised that this matter would be continued until the April 23, 2015, public hearing.

There being no opposition, Mr. Newcomb read a motion to continue the application until Thursday, April 23, 2014, at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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2. HAMPTON ROADS LAND COMPANY, for a change of zoning from R-11 (Moderate Density Multi-Family) district to conditional I-5 (Deep Waterfront Industrial) district on properties located at 1701-1731 Brown Avenue.

The purpose of this request is to allow for the construction of a warehouse facility to support the marine operations of the adjacent towing company.

Mr. Newcomb advised that this matter would be continued until the April 23, 2015, public hearing.

There being no opposition, Mr. Newcomb read a motion to continue the application until Thursday, April 23, 2014, at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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3. ALBERT VIOLA, for a change of zoning from C-2 (Corridor Commercial) district to conditional R-14 (High Density Multi-Family) district on property located at 7922 Shore Drive.

The purpose of this request is to allow for the development of a multi-family condominium project with a maximum of 40 units.

The applicant, Mr. Albert Viola, 205-B 60th Street in Virginia Beach, stated that the development of this property will provide an opportunity to upgrade the south vehicular pedestrian entrance to the Bayfront, which will be a primary entrance along this corridor. If rezoned and developed, it will establish a transitional area from the intersection to the bridge with medium density housing, mixed-use low-impact office and commercial. The new commercial use will generate less traffic and will avoid strip commercial development which is currently on that road. The development also calls for more green space than commercial and office space. The East Ocean View Civic League recommended approval.

Mr. Viola stated that the parking exceeds the 1.75 spaces per unit for a total 79 spaces. The density that they are seeking is 40 units proffered at 25 units per acre. The zoning that they are asking for would allow 33 units per acre from 52 units, so they're using less density. They are exceeding the 35 percent open space and are at 47 percent with their rooftop gardens. The building

height is 35 feet which is under the 45-foot maximum and building setbacks on all sides of the property exceed the zoning requirements. There are 70 parking spaces that are concealed from Shore Drive. The only parking spaces that are seen are the guest spaces out front and everything else is under the building or at the rear of the property. Forty-seven percent of the open space is included in the central courtyard and five rooftop gardens. Each garden will be separate for each of the eight units. There will be stormwater reclamation through a rooftop grader, dry riverbeds in the open space and maintenance free exteriors. There will also be ground-level personal storage for bikes, surfboards and fishing rods. There will be open space at the front entrance for visual enhancement along Shore Drive. They are proffering the site plan, elevations, density, rooftop gardens, underbuilding parking, open courtyard and building exterior, colors and materials. He thanked the Ocean View Civic League, Norfolk city staff, ARB and planning members for their cooperation and input in developing this project.

Speaking as a proponent, Mr. John Greene, 4720 East Beach Drive, Norfolk, president of the East Ocean View Civic League, stated that he is speaking on behalf of the civic league in support of Mr. Viola's request to rezone the property at 7922 Shore Drive from its current C-2 to conditional R-4 zoning. He stated that Mr. Viola and a representative from the engineering firm attended their civic league meeting in February and addressed questions regarding project size and scope, resident parking, traffic flow and setbacks. In regards to parking, there are only 40 units with the potential for 80 vehicles including visitors and not all will enter and exit at the same time. It was also noted that the applicant will explore a rear entrance off Little Creek Road. He thanked the Commission for their consideration of this request and support for East Ocean View.

Speaking in opposition, Mr. Michael Shahan, 8021 Buffalo Avenue, Norfolk, president of the Bel-Aire Civic League and business owner directly behind this property in the neighborhood, stated that when it comes to Bel-Aire, they unanimously voted against this project. He expressed concern with traffic and repeating the mistakes of the past. He stated that they don't know what the full impact from current construction projects will have on traffic, i.e. the apartments on Pretty Lake Avenue, Points East Condominium Place and East Beach. He also stated that they want to see more of a plan laid out where the commercial and residential flow more nicely along this corridor, noting that the property is best suited for a YMCA or a commercial condo system where small entrepreneurs can own their own business condominium.

There being no further comments, Mr. Newcomb read a motion to recommend that the change of zoning be approved subject to conditions contained in the staff report, which motion was adopted.

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4. CATHERINE McCOY, for a change of zoning from conditional R-8 (Single-Family) and Bay Front Residential Parking Overlay (BFRPO) districts to conditional R-12 (Medium Density Multi-Family) and BFRPO districts on property located at 2040 E. Ocean View Avenue.

The purpose of this request is to allow for the development of a two-family dwelling.

Mr. Simons stated that this application is for a conditional rezoning from conditional R-8 single family to conditional R-12 multifamily in order to accommodate a two-family use on the site. The site is located on the north side of East Ocean View Avenue. It is approximately 11,000 square feet and has direct frontage on East Ocean View Avenue and the Bayfront. It is currently zoned conditional R-8 and the R-12 zoning is consistent with the vast majority of the property along this stretch of East Ocean View Avenue. The R-12 zoning would allow the applicant to accommodate the proposed development of the property which is stated in the application as a 3,000-square-foot single family home and a 1,000 square-foot carriage house. In 2001 there was an unimproved 18-foot-wide lane of unimproved right-of-way that accessed the beach that was closed by the city in 2001. This 18-foot lane was purchased by a previous property owner and was combined with a 40-foot-wide lot to create the 58-foot-wide lot that it is today. At the same time in 2001, Council approved the site to be rezoned to conditional R-8 and as part of that street closure request, there were a few conditions that were placed on the R-8, one of which was a condition that tied the proposed home to a specific set of elevations. All of the R-8 conditions will be removed for this proposed rezoning and replaced with a new condition proffered by the applicant.

Mr. Simons noted that the request that is before the Commission is to revert the zoning back to R-12 in context with what is seen on the rest of East Ocean View Avenue. In the application, the state of intent is for a 3,000-square-foot home and a 1,000-square-foot carriage house. There is a letter of support from the Bayview and Cottage Line Civic Leagues with the letter from the Cottage Line reiterating their support for a single family home with carriage house. The applicant agreed to proffer the following condition: The development and use of the property shall be limited specifically to a three-car garage with overhead apartment to be located on the south side of the property and a single family house to be located on the north side of the property facing the beach. He noted that this will be the condition that's attached to the R-12 zoning. Staff does recommend support of the change to R-12.

Mr. Fraley acknowledged that the applicant Ms. Catherine McCoy is present to answer questions.

Ms. McClellan commented that other R-12 zoning allows for two houses. In response, Mr. Simons stated that under the definition of a two-family structure that it would include a single family home and a carriage house because there are two separate kitchen facilities and bathing facilities. He also noted that the most that this size property could handle in terms of multifamily development would be two-family whether it's in the form of a duplex or carriage house. They couldn't do a triplex or any other multifamily because of its size and it doesn't have enough street frontage to accommodate that in the Zoning Ordinance.

There being no further comment, Mr. Newcomb read a motion to recommend that the change of zoning be approved subject to conditions contained in the staff report, which motion was adopted.

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5. CATHOLIC DIOCESE OF RICHMOND, for a change of zoning from R-8 (Single-Family) and IRIIO (Institutional Residential Impact Overlay) districts to conditional IN-2 (Institutional Campus) district on properties located at 1300-1310 49th Street.

The purpose of this request is to allow for the construction of a new Old Dominion University Catholic Campus Ministry.

Mr. Paul Mahefky, 7800 Carousel Lane in Richmond, VA 23294, stated that he is the director of real estate for the Diocese of Richmond and that they've had this property for 30 to 40 years and have outgrown it. It is a detached house and is not conducive to the kind of ministry that they have with students; so they decided to look at what they could do there. Old Dominion University communicated to them that they could acquire some adjacent properties. The garage beside them is owned by ODU and they have an agreement with them that they could park in the garage next to them if there was a need for additional parking, but its minimal requirement for students because they walk to mass from the campus. He provided a conceptual view of the building, noting that the left-hand side would be the administrative and the right-hand side of the building would be held for special activities and meeting rooms and then the top part would be where they hold their services.

Mr. Fraley asked if the university has seen the rendering that was presented to the Commission. Mr. Mahefky responded that they have.

Mr. Fraley asked if the university provided any feedback at all. In response, Mr. Mahefky stated that the university gave him the basic blueprint of what they thought they would like and he thought they had an excellent idea. He noted that the university has been part of this, so he can't take credit for all of this. He also stated that he had a nice long chat with the president of the civic league, David O'Dell, back in February and he is in full support of this proposal.

Mr. Thomas Harris, 1231 W. 27th Street, Norfolk, president of the Lamberts Point Civic League, stated that this matter doesn't affect their community at all, but being that ODU is right there next to them they consider what happens on and off the campus very seriously. They want to support ODU like they support them and they would like this application to go through.

Mr. Fraley stated that he is delighted to see that the Catholic Diocese of Richmond has taken an interest in wanting to upgrade their presence on one of the major university campuses in the Commonwealth. He also stated that he likes what they are showing in the rendering and hopes it comes to fruition.

There being no further comments, Mr. Newcomb read a motion to recommend that the change of zoning be approved subject to conditions contained in the staff report, which motion was adopted.

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6. GROVE PARK PLACE ASSOCIATES, LLC, for a special exception to permit townhouses on property located at 3243 Granby Street.

The purpose of this request is to allow for the construction of five new townhouses.

Mr. Newcomb advised that this matter would be continued until the April 23, 2015, public

hearing.

There being no opposition, Mr. Newcomb read a motion to continue the application until Thursday, April 23, 2014, at 2:30 p.m. in the City Council Chamber, which motion was adopted.

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7. BJ'S WHOLESALE CLUB, for a special exception to operate a gas station on property located at 5832 E. Virginia Beach Boulevard.

Mr. Fraley stated that there is no opposition to this application. He acknowledged that the applicant's representative is present to answer questions.

Mr. Simons noted that there is one letter of opposition in the Commissioners' packets.

Mr. Newcomb noted that the opposition comes from the business located on the other side, which is a 7-Eleven operator who feels that a gas station might not be in character with the area.

Representing the applicant, Mr. Randy Royal, Kimley-Horn and Associates at 4500 Main Street, Suite 500, in Virginia Beach, stated that they have an existing C-3, retail center zoning. They are asking for a use permit to operate a gas facility, which will be an ancillary use to the existing BJ's which is located in Janaf Shopping Center. They are proposing six MPDs (Multiple Product Dispensers) and a kiosk for an operator. There is no convenience store sales or anything like that. The hours are basically the same as BJ's Wholesale, but it's opened maybe 30 minutes afterwards on each day to allow for customers who have done their shopping to still have time to get gas. The hours of operation for the gas station are: 6:30 a.m. to 9:30 p.m. Monday through Saturday and 6:30 a.m. to 7:30 p.m. on Sunday. They worked with staff on the conditions that were agreeable to all of them. They worked extensively with traffic engineering to talk about the flow on site and how the vehicles will get in and out minimizing the access points. There are four access points now and there is an in and out on Virginia Beach Boulevard which was changed to an in only to eliminate that movement. Staff recommended approval of the request.

Mr. Simons also noted that there is a letter of support in the Commissioners' packet from the Lake Taylor Civic League.

There being no further comment, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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8. IM DO, for the following applications on property located at 4225 Granby Street:

- a) Special exception to operate a gas station.**
- b) Special exception to operate an automobile and truck repair facility.**
- c) Riverview Pedestrian Commercial Overlay Development Certificate.**

Ms. Pollock-Hart stated that the property is at the southern end of the Granby Street Bridge, which is on the west side of Granby Street and on the east side of Llewellyn Avenue. The property is located in the Riverview Pedestrian Commercial Overlay District which does encourage and allows such uses by special exception. The existing use has a gas station and a car repair and the applicant is proposing to expand it by adding another service bay. She explained that the operation of this site is currently being operated as a gas station and a car repair and those uses were in place prior to the adoption of the existing PCO, so they are legally nonconforming. The applicant does want to do an expansion and when they do that they have to become conforming and they have to come in and apply for the special exception for the car repair and the gas station. As indicated in the proposed site plan, there are improvements proposed to the site and conditions that are included as part of the special exception as follows:

The hours of operation are from 7 a.m. until 9 p.m. Monday through Friday and 8 a.m. until 6 p.m. on Saturday and closed on Sunday; landscaping shall be installed and maintained in accordance with the landscape plan attached hereto and marked as Exhibit A; landscaping shall be installed no more than three months after the adoption of this ordinance. Staff noted in the site plan that landscaping will be along both Llewellyn Avenue and along Granby Street where there is none now. They are also proposing some driveway closures. The northern most driveway along Llewellyn Avenue and the middle driveway on Granby Street shall be closed in accordance with the standard set forth by the Department of Public Works; notwithstanding any other regulations pertaining to temporary window signage within Chapter 16 of the Zoning Ordinance; no less than 50 percent of the glass area of the front façade of the building shall be transparent; the dumpster shall be screened with masonry walls that complement the building; there shall be no signage on any wall of the building other than the front façade; all portable signs shall be removed; there shall be no storage of tanks, drums or barrels stored outside; storage tanks that are not being used shall be removed from the site; all storage tanks and bollards on the site shall be painted and properly maintained.

Ms. Pollock-Hart noted that those are the conditions pertaining to this particular property and the improvements that will be made that are not there now. Subject to these conditions and the standard conditions pertaining to work being done outside and having a work order for all of the cars, staff recommended with these conditions that these applications for both special exceptions be approved. This will bring the existing uses into conformance and will improve the site and it will allow the applicant to do an expansion.

Mr. Fraley stated that there was a letter in their packet from the civic league expressing concern about the height of the addition. In response, Ms. Pollock-Hart stated that they received a letter from the acting president of the civic league expressing some concern about the height of the proposed expansion.

Representing the applicant, Mr. Mark Woodard, architect with Woodard Design, 1100 Granby Street-Suite 201, stated that they have been going through this process for a long time and they met with the civic league twice and both times they never had enough people for a quorum so they received a general approval with those members who were present. He noted that the president at the time sent him an email confirming that the overall opinion on what they were trying to do with the gas station was approved, but he later received a letter from staff indicating

that the Riverview section was not very happy with what they were trying to do and during that time they had lowered the building, which is a one story structure. The building is a low-profile structure and they are trying to keep the same type of architecture. They have to maintain on the backside of the building the same type of profile so they lowered it by two feet. The consensus from the civic league meetings were approval of the project.

Mr. Woodard stated that they are okay with all of the recommendations except for the dumpster. They would propose doing wood construction with a dryvit finish because the addition they are going to put on there and a lot of the building already has a dryvit finish and they think it meets the intent of the code and the Planning Commission's requirement. He further stated that that would be the only exception that they would have with the proposal and other than that he hopes that everybody is in favor of the agreement.

Speaking as a proponent, Mr. John Childers, 424 Connecticut Avenue, Norfolk, stated that he is a board member of the Riverview Village Business Association and is the current treasurer and past president and he owns MJs Tavern and also owns the property that it sits on. He stated that what the applicant is trying to do here will brighten up the area and make the gateway into the neighborhood and the gateway into downtown Norfolk lot better. He also stated that they are fully behind this proposal and have discussed it at their last business league meeting.

Mr. Richard Levin, proponent, 122 W. 21st Street, Norfolk, stated that he has been a part of the Riverview Village Business Association over 25 years. He stated that he is very excited for Jason, who has been a part of this village for a lot of years and have been an active member of their business association. He also stated that what is being proposed is fabulous and will lift up the entire district as you come over the bridge. He asked the Commission to strongly consider the request because it is a good one.

Ms. McClellan stated that one of the issues here is the area that contains the trash. She noted that there is a similar look and feel to the enclosure as compared to the actual building itself, but the proposed change to improve the structure is not the change that was recommended. In response, Mr. Woodard stated that he thought the structure was in pretty good shape and instead of them going through the expense of a masonry enclosure, they think it would be better and cheaper for them to do it in wood and match the addition since it will be located on the backside of the building where the addition will go. He also noted that there are multiple materials on the building, block, brick and dryvit finish on the front and the compromise for them would be to allow them some latitude to build a wooden structure with a dryvit finish on three sides with a cap and a wooden gate, which is what they are asking to do.

Mr. Thomas stated that the addition shows a garage door similar to any garage door on a house or business these days and the old existing front has the older glass paneled garage door. He asked if there is any way to have those doors match so that they would work together. In response, Mr. Woodard stated that the doors he had are very old and in the interest of some money savings and still allowing some light inside the new structure, they want to put a series of lights across the top. He also stated that from a security standpoint that he was trying to minimize the glass on that particular part of the building for those doors since it is tucked around the corner and into the backside a little.

Mr. Newcomb stated that they have a request to the condition and the recommendation that addresses the exterior material of the dumpster and if the Commission is in agreement with the applicant's request they would revise it to read as follows: "That the dumpster shall be screened with walls that are constructed in the same exterior materials as the building" and that would pick up the dryvit.

Mr. Fraley asked if everyone was in agreement.

(Commissioners agreed.)

Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

Mr. Fraley commented that the Commission appreciates the extent in which the applicant is going to make this gateway site more appealing.

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9. VINCENT POWELL, for a special exception to operate an automobile and truck repair facility on property located at 860 Avenue J.

Mr. Jones stated that the property is located on the north side of Avenue J, north of Sewells Point Road and south of Little Creek Road and is surrounded by a variety of commercial uses. This is a request to have a core repair facility. This site at one time operated as an auto repair facility and that facility ceased use in 2010, which two years passed and the site lost its prior grandfather use. The applicant is here to request a special exception for auto repair to reestablish that use and it is zoned C-2 which permits the use with a special exception. He noted that since this application came in, regulations for auto repair have changed and this application is being held to the prior standard. The prior standard for special exceptions allow staff to recommend various conditions which they believe will make the site better as far as use, construction, operation, character, location, landscaping and etcetera. The site which is under old regulations is too small to meet current regulations and in regards to landscaping, staff is requesting a ten-foot landscape buffer along the front, a six-foot landscape buffer to the east, and a six-foot landscape buffer to the east behind the building and directly north behind the building. The applicant has agreed to do that and in doing that they will replace the apron to the property and reduce the size to make it correlate with the proposed improvements and with that staff recommended approval of the application.

Mr. Jones noted that staff received an email from the property owner immediately to the west, who is in opposition.

Mr. Fraley commented that this is a very challenging site in terms of size and type of work that the applicant wants to do and the site is such that it generates a lot of vehicular traffic which it does not appear to be able to accommodate. He noted that the next door neighbor has complained about prior occupants parking on their site. He asked the applicant if he might be willing to consider an 18-month trial period of the business operating at this location in hopes that they can

see what compatibility or lack of compatibility may evolve as a result of what those around them and the neighbors might be concerned with. He asked if that might be something that they might be willing to try.

The applicant, Mr. Vincent Powell, 3852 Augustine Circle in Portsmouth, responded that that would be great. He noted that they are not doing the same type of auto repair that was previously done at this location. They don't do any mechanic work or repairs at all and they don't have the long-term cars there and don't have a lot traffic as well. They just do rims, tires, audio, some window tint and small items. They do cars by appointment and the longest cars are going to be there is about an hour-and-a-half. He further stated that the trial would be great and that the auto repair part is just definition because they are not doing any engine repair, no brake jobs and no oil changes. He noted that the new definition puts them under auto repair instead of audio and rims.

There being no further comments, Mr. Newcomb read a motion to recommend approval of the special exception subject to conditions contained in the staff report and further subject to the special exception expiring 18 months from the date of adoption by City Council and the Ordinance adopting it, which motion was adopted. (Mr. Thomas dissented.)

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10. BAY CITY CLASSICS, INC., for a special exception to operate an automobile and truck repair facility on property located at 3335 Croft Street.

Mr. Fraley stated that there is no opposition to this application and noted that the applicant is available to answer questions.

There being no opposition, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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11. 7-ELEVEN, for the following applications on property located at 2475 E. Little Creek Road:

- a) Special exception to operate a convenience store 24-hours (with fuel sales).**
- b) Special exception for the sale of alcoholic beverages for off-premises consumption.**

Mr. Fraley stated that there is no opposition to this application and noted that the applicant is available to answer questions.

There being no opposition, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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12. THE NEW DONUT DINETTE, for the following applications on property located at 1917 Colley Avenue:

- a) Special exception to operate an eating and drinking establishment.**
- b) Colley Avenue Pedestrian Commercial Overlay Development Certificate.**

Mr. Simons stated that this is a request for a special exception by The New Donut Dinette, which is located on the corner of Harrington Avenue and Colley Avenue. The site is located with a mix of different uses surrounded by residential to the south and to the west and commercial uses to the north and northeast and institutional use directly to the west. The request is for a special exception for an eating and drinking establishment at the site that previously had the original Donut Dinette. Hours of operation are from 6 a.m. to 10 p.m., Monday through Thursday and open 24 hours starting on Friday at 6 a.m. through 10 p.m. on Sunday, which was similar to how the old Donut Dinette operated during the summer hours. Hours of operation for alcohol are from 9 a.m. to 10 p.m. every day of the week. Seating capacity is the same for indoors and they are adding 50 more seats outdoors for a total capacity of 95.

Mr. Simons noted that the site plan includes the commercial spaces that are also on the same property to the south of the site and all of those uses meet the current parking requirements for the various uses in the district. The parking behind will have to be improved to come up to code and the landscaping that is attached to the site plan as a condition of the ordinance. There is a condition in there that requires a six-foot solid fence separating the parking lot from the adjacent residential to the west. This application is also accompanied by a PCO Development Certificate and for the outdoor dining structure to the side along Harrington Avenue to make sure that it complies with all of the development standards of the PCO and there are no waivers are needed for this. The structure comes directly up to the property lines and it is fully transparent. The structure incorporates the existing trees that are present on the site, which has been vetted through Recreation Parks and Open Space. He also noted that staff is in receipt of a letter of support from the Ghent Neighborhood League and they do express some concern with the extended hours and the introduction of alcohol to this site. They have asked for a sunset period and expiration of this special exception where this would be revisited in 12 months. Staff noted that these are usually done in 18 months where they would have a decision from Planning and City Council within that time frame. Staff recommends approval of the Special Exception and the PCO Development Certificate as presented.

Speaking as a proponent, Mr. David Zellmar, 718 Redgate Avenue, Norfolk, stated that he is a board member of the Ghent Neighborhood League and they did approve the application but would like the Commission to be aware of some concerns they have. He stated that they want to encourage the reopening of this business location and wish the business owner success, but he believes that the applications as presented if they are successful in attracting the number of patrons that they plan, it will result in an untenable parking situation for residents and property owners. He expressed concern that the proposed number of outdoor seating would impact the parking and their board did not feel they could vote on the parking issue because it has been presented as though this is a done deal because it's in accordance with the Zoning Ordinance. He also stated that they were looking for a little flexibility and he doesn't think they got it.

Mr. Newcomb stated that most of the parking there was put in place by the city specifically

to support the businesses there in recognition of the need to get the cars out of the neighborhood. He also stated that when staff presents an item, it is never presented as a done deal because they don't vote. When an applicant is told that it meets the requirements, it's still subject to an approval by the Planning Commission and by City Council.

Ms. Austin asked as a point of clarification if the complete number of seats available for customers was figured into the parking available in the back. In response, Mr. Homewood stated that that is not the case. He explained that the Zoning Ordinance exempts from parking calculations seats that are exclusive to outdoor dining. When outdoor dining is proposed, you will see as part of the conditions a prohibition on enclosing it and conditioning it with heating and cooling and things like that to ensure that it remains as outdoor dining. He further stated that during good weather places that are walkable such as 21st Street, Colley Avenue and Downtown, people will walk. It's during the winter months that parking is used more frequently by a high percentage of patrons because that is the time outdoor dining is generally not available and if it is available nobody wants to sit outdoors.

Mr. Homewood further commented that the theory is that during warmer months there will be more people walking and fewer indoor seats being used and that was the theory that went into the Council policy, so they do not count outdoor seats in assessing parking.

Mr. Zellmar stated that he brought this up because their concern is that in this particular location it's in an area with very tight parking and they're concerned that this could lead to a very difficult situation with outdoor seating and parking.

Ms. McClellan stated that in the first paragraph of the letter that was presented, there was a request for a 12-month sunset clause and that was reflective of the extended hours and introduction of alcohol at that location and based on staff's reference to the typical sunset being 18 months given the fact that they want to have at least a year's worth of operation. She asked if they would be willing to consider the 18 months. In response, Mr. Zellmar stated that they discussed it and they knew that there was a policy so they are going with what was recommended.

Mr. Fraley asked Mr. Simons if he spoke with the applicant with regard to a potential sunset clause. Mr. Simons responded no. He stated that he just received the letter from the Ghent Neighborhood League this morning and has not had a chance to speak to the applicant about that.

Mr. Hales stated that he believes the sunset is warranted with the parking so they would have a year of operating to see if the parking is a problem or not a problem.

Mr. Thomas stated that he is a bit concerned that they are handing out the sunset clauses a little too often without having a real concern and looking at this application there is very little difference from this one and probably 20 others that they've had go through in that neighborhood since he's been on the Planning Commission. He also stated that it's Ghent and there are eateries that serve alcohol up and down the street and some of them have entertainment and this particular one doesn't even have entertainment. It's Ghent and it's supposed to be an encouraging walkable neighborhood and he has a hard time seeing whether parking is going to be that much of a problem that often. He stated that if that is the pleasure of the Commission to do the sunset that's fine but

he's wondering whether they're handing them out a little too much too often.

Dr. Neumann stated that he agrees with Mr. Thomas' comments and he feels a little uncomfortable adding an additional burden to this business with a sunset clause and their needing to come back through. They need to put some money and invest in the growth in this area and there are other areas in this city that are giving real competition to the Colley Avenue business corridor and to handcuff them at this time he does not think that it gives them the full advantage to succeed and doesn't think that he would be in favor of adding that at this time.

Mr. Thomas stated that he thinks it would be worthwhile to ask the zoning experts to take a look at this for them. He also stated that he has an opinion but is not sure that in the long run that that's going to be his final position, but he agrees with Dr. Neumann at this time and feels that they should study it and not shoulder this particular applicant with the burden of having to possibly shut down.

There being no further comments, Mr. Newcomb read a motion to recommend that the Pedestrian Commercial Overlay Development Certificate and the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

Mr. Fraley thanked Mr. Simons for pointing out that they typically don't extend the sunshine clause to places that don't have entertainment. He also stated that he appreciates Mr. Zellmar bringing that to their attention in hopes that the Commission might see that this type of thing is considered where they are right now with regard to the zoning rewrite. He noted that it's these type of things they want to have addressed, so if they come up in the future they will have a better sense for how to deal with it and maybe try to encapsulate that in whatever new ordinance they may come up with.

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13. SMALL'S RESTAURANT AND CATERING CO., for a special exception to operate an entertainment establishment with alcoholic beverages on property located at 2700 Hampton Boulevard.

Mr. Fraley stated that there is no opposition to this application and noted that the applicant is available to answer questions. He also noted that Mr. Harris would like to speak in favor of this application.

Mr. Thomas Harris, 1231 W. 27th Street, Norfolk, stated that he lives down the street from the restaurant and approves of Small's Restaurant having alcohol there because they are a good business there and the corner is clean, the traffic is really good and he has not seen any problems since the restaurant has been there. He stated that he has had an opportunity to visit the establishment to eat and that the Lamberts Point Civic League approves of them operating this establishment.

Mr. Thomas thanked Mr. Harris for taking the time to come down today to speak on behalf of the applicants, noting that it is very helpful for them to hear those things.

There being no further comments, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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14. CROAKER'S SPOT, for a special exception to operate an entertainment establishment with alcoholic beverages on property located at 600 35th Street.

Mr. Fraley acknowledged that there is no opposition to this application.

Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

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15. LAMBERTS POINT GOLF COURSE, for a special exception to operate an entertainment establishment with alcoholic beverages on property located at 4301 Powhatan Avenue.

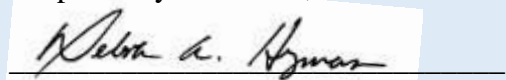
Mr. Fraley stated that there is no opposition to this application and noted that the applicant is available to answer questions. He also noted that Mr. Harris would like to speak in favor of this application.

Mr. Thomas Harris, 1231 W. 27th Street, Norfolk, stated that he supports this application and thinks it will be a great asset to the neighborhood and to the college and they want his business there.

There being no further comments, Mr. Newcomb read a motion to recommend that the special exception be approved subject to conditions contained in the staff report, which motion was adopted.

There being no further business to discuss, the meeting adjourned at 4:25 p.m.

Respectfully submitted,



Debra A. Hyman

Deputy City Clerk/Stenographic Reporter